

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re:	§	Case No. 13-41815
	§	
MED-DEPOT, INC., <i>et al.</i>	§	(Chapter 11)
	§	
Debtors	§	Jointly Administered
	§	

MOTION TO CONTINUE CONFIRMATION HEARING

COME NOW, Med-Depot, Inc. d/b/a Hospice Source (“Med-Depot”) and Med-Depot Holdings, Inc. (“Holdings” and together with Med-Depot, the “Debtors”) and submit this Motion to Continue Confirmation Hearing (the “Motion”) as follows:

I.

JURISDICTION

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

II.

BACKGROUND

2. On July 26, 2013 (the “Petition Date”), the Debtors filed their voluntary petitions for relief (the “Cases”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”). The Debtors cases have been jointly administered for procedural purposes under Case No. 13-41815. The Debtors continue to operate their respective businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and

1108 of the Bankruptcy Code. The United States Trustee appointed a creditor's committee on August 13, 2013.

3. On July 30, 2013, the Debtor filed their Joint Disclosure Statement [Dkt. No. 28] and Joint Plan of Reorganization [Dkt. No. 29]. On September 9, 2013, the Debtors filed their Amended Disclosure Statement (the "Disclosure Statement") and Amended Joint Plan of Reorganization (the "Plan") [Dkt. No. 112]. On September 10, 2013 the Disclosure Statement was approved by the Court. [Dkt. No. 113].

4. The Order Approving the Disclosure Statement provides that the deadline for any creditor or party to object to confirmation of the Plan is October 14, 2013 (the "Objection Deadline") and all ballots must be returned to the balloting agent on or before October 16, 2013 (the "Voting Deadline"). The Order Approving the Disclosure Statement further provides that the hearing to consider confirmation of the Plan (the "Confirmation Hearing") is scheduled for October 21, 2013.

5. The Plan contemplates capital infusions from Westbury¹ and Evolve in exchange for the equity in the Reorganized Debtor. The Disclosure Statement acknowledged that a potential risk to the Plan was that Westbury and/or Evolve may elect not to provide the capital infusions required to make the Plan feasible.

6. Recently the Debtors learned that neither Westbury nor Evolve are prepared to commit to making the capital infusions necessary to make the Plan feasible.

III.

RELIEF REQUESTED

7. By this Motion, the Debtors request that the Court enter an order continuing the Confirmation Hearing and extending the Voting Deadline and Objection Deadline.

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Plan.

IV.

BASIS FOR RELIEF

8. Without the capital infusion contemplated by the Plan, the Debtors cannot consummate the Plan. Accordingly, the Debtors seek to continue the Confirmation Hearing to give Evolve and Westbury additional time to determine if they are willing to fund to the Plan or for the Debtors to find substitute capital sources with which to fund the Plan.

V.

NOTICE

9. Prior to filing this Motion, counsel for the Debtors conferred with the following parties in interest regarding the relief requested herein: (i) the United States Trustee; (ii) counsel for Texas Capital Bank; (iii) counsel for Westbury; (iv) counsel for Evolve; (v) counsel for Invacare; and (vi) counsel for the Unsecured Creditor's Committee. None were opposed to the relief requested in the Motion.

WHEREFORE, the Debtors request that this Court enter an order: (i) continuing the Confirmation Hearing to November 4, 2013; (ii) extending the Objection Deadline to October 28, 2013 and the Voting Deadline to October 30, 2013; and (iii) granting such other and further relief as may be just.

RESPECTFULLY SUBMITTED this 11th day of October, 2013.

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**ATTORNEYS FOR THE
DEBTORS IN POSSESSION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Continuance of Confirmation Hearing was served via United States First Class Mail, Postage Prepaid, to the parties listed below on October 11, 2013.

John C. Leininger
John C. Leininger

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